

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6885

IN THE MATTER OF:

Served October 30, 2002

SMA TRANSPORTATION SERVICE)	Case No. MP-2002-52
INCORPORATED, WMATC No. 584,)	
Investigation of Violation of)	
Regulations Nos. 61 and 62)	

This investigation was initiated on July 11, 2002, in Order No. 6729 to determine whether respondent has violated Regulation Nos. 61 and 62, governing vehicle markings and leases, respectively.

I. BACKGROUND

On April 12, 2002, the Commission became aware that respondent was operating a vehicle owned by another WMATC carrier, Rad Akorli, trading as T.R. Transportation Service, WMATC No. 541.¹ Commission Regulation No. 62 requires each carrier that leases a vehicle to file a copy of the lease with the Commission, but no lease from Akorli to respondent could be found in the Commission's files.

On April 15, 2002, Commission staff sent a letter to respondent directing respondent to present all of its revenue vehicles for inspection. A vehicle list from respondent's insurance company showed respondent operating three vehicles, but the list did not include the Akorli vehicle. Respondent subsequently presented one vehicle for inspection -- the Akorli vehicle.

The inspection revealed that the Akorli vehicle markings were not in compliance with Regulation No. 61. That regulation requires each WMATC carrier to display on both sides of each revenue vehicle the vehicle owner's name and the carrier's name and WMATC number. The markings on the Akorli vehicle misidentified the owner as F. Kweku. Regulation No. 61 also stipulates that the markings must be legible from a distance of fifty feet. The markings on the Akorli vehicle were less than two inches high. Two inches does not meet the legibility standard under Regulation No. 61.²

¹ Akorli subsequently voluntarily terminated his certificate of authority on May 20, 2002. In re Rad Akorli, t/a T.R. Transp. Serv., No. MP-02-63, Order No. 6661 (May 20, 2002).

² In re Great American Tours, Inc., & The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 5007 (Jan. 23, 1997).

Order No. 6729 directed respondent to: (1) cease operating the Akorli vehicle unless and until otherwise ordered by the Commission; (2) bring its operations into compliance with Regulation Nos. 61 and 62 and ensure that all of its revenue vehicles are reported to its insurance company; and (3) produce all revenue vehicles for inspection by Commission staff within thirty days.

II. INSPECTION RESULTS

The latest vehicle list from respondent's insurance company shows four vehicles: a 1999 Ford van (the Akorli vehicle); a 1987 Chevy van; a 1993 Pontiac van; and a 1993 Dodge van.

The Akorli vehicle passed inspection by Commission staff on August 1, 2002. The Chevy van was reported stolen by respondent on or about July 21, 2002, was later recovered but has been withdrawn from service and is now being used for parts, according to a sworn statement from respondent.

The Pontiac was presented for inspection on July 23, 2002, and on August 1, 2002, and failed both times. This vehicle is owned by respondent's president, but respondent has not yet filed an acceptable lease in compliance with Regulation No. 62,³ and the removable display intended to comply with Regulation No. 61 does not identify the vehicle owner.

The Dodge van was presented for inspection on August 7, 2002, and failed. It suffers from the same defects as the Pontiac.⁴

III. ASSESSMENT OF CIVIL FORFEITURES

A carrier that knowingly and willfully violates a provision of the Compact shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.⁵

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁶ The term

³ Respondent filed a lease on August 29, 2002, for a "PONTIAC, TRANSPORT SE WHITE, 6 PASSENGERS," using the Commission's standard lease form. The vehicle serial number is missing from the lease even though the form clearly requires that information to be included as part of the vehicle description. Without a serial number or other unique identifier as part of the vehicle description, the lease is unacceptable.

⁴ Respondent filed a second lease on August 29, 2002, for a "DODGE, RAM 250 WHITE, EIGHT PASSENGERS," using the Commission's standard lease form. The vehicle serial number is missing.

⁵ Compact, tit. II, art. XIII, § 6(f).

⁶ In re Washington Exec. Sedan, Inc., & Global Express Limo. Serv., Inc., No. MP-02-03, Order No. 6772 (Aug. 13, 2002).

"willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.⁷ Employee negligence is no defense.⁸

We will assess civil forfeitures against respondent in the amount of \$250 for knowingly and willfully violating Regulation No. 61⁹ and \$250 for knowingly and willfully violating Regulation No. 62.¹⁰

We also will assess a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Commission Rule No. 28, which mandates that a person ordered to perform an act must file within thirty days of the date performance is required a sworn statement verifying compliance. In this case, respondent was directed to cease operating the Akorli vehicle unless and until otherwise ordered by the Commission. Under Rule No. 28, respondent's sworn statement was due no later than August 10, 2002, thirty days after Order No. 6729 was issued.¹¹ To date, respondent has not complied with Rule No. 28.

IV. CONCLUSION

Respondent may operate the Akorli vehicle under Certificate No. 584. Respondent may not operate the 1993 Pontiac van or the 1993 Dodge van under Certificate No. 584 until they pass inspection by Commission staff.

THEREFORE, IT IS ORDERED:

1. That respondent may operate the 1999 Ford van leased from Rad Akorli.

2. That, other than in the 1999 Ford van leased from Rad Akorli, respondent may not transport passengers for hire between points in the Metropolitan District using any vehicle identified in this order unless and until respondent is advised in writing that it passes inspection by Commission staff.

3. That the Commission hereby assesses a combined civil forfeiture against respondent in the amount of \$750 for knowingly and

⁷ Id.

⁸ Id.

⁹ Cf., id. (assessing \$250 for violation of advertising regulation); In re OAO Corp., t/a BMG Limo. Serv., Lockheed Martin Corp., & BMG Limo. and Jet Serv., LLC, No. MP-02-17, Order No. 6760 (Aug. 5, 2002) (same).

¹⁰ See Order No. 6760 (assessing \$250 for first offense).

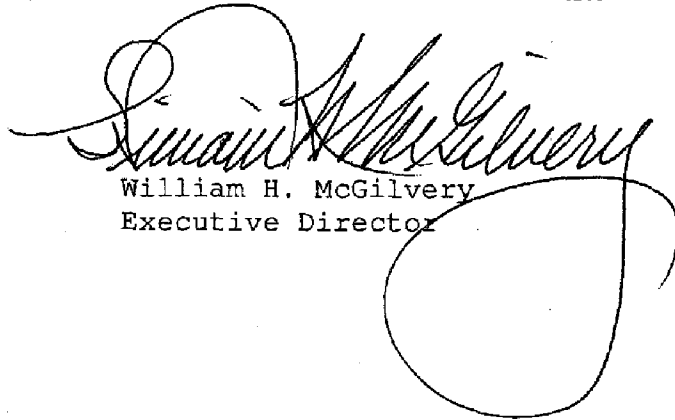
¹¹ "An order of the Commission shall be effective as of the date of issuance, unless otherwise specifically provided in the order." Commission Rule No. 7-03.

willfully violating Commission Rule No. 28 and Commission Regulation Nos. 61 and 62.

4. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of seven hundred fifty dollars (\$750).

5. That Certificate of Authority No. 584 shall stand suspended, and be subject to revocation without further notice, upon respondent's failure to timely comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William H. McGilvery
Executive Director